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SUPREME COURT OF THE UNITED STATES.

No. 173.

THE UNITED STATES, APP'TS,

vs.

JULIAN ESTRADA.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

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Transcript of the Proceedings in Case No. 140,

JULIAN ESTRADA, Claimant,
vs.
UNITED STATES, Defendant,

For the place named "Santa Rosa."

OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

Be it remembered, that on this thirtieth day of March, Anno Domini one thousand eight hundred and fifty-two, before the Commissioners to ascertain and settle the Private Land Claims in the State of California, sitting as a Board in the City of San Francisco, in the State aforesaid, in the United States of America, the following preceedings were had, to wit:

The petition of Julian Estrada, for the place named Santa Rosa, was presented and ordered to be filed and docketed with No. 140, and is as follows, to wit:

(*Vide* page 3 of this Transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

LOS ANGELES, September 9th, 1852.

In case No. 140, Julian Estrada, for the place named "Santa Rosa," the deposition of Pablo de la Guerra, a witness in behalf of the claimant, taken before Commissioner Harry J. Thornton, was filed:

(*Vide* page 4 of this Transcript.)

LOS ANGELES, October 8th, 1852.

In the same case the deposition of William R. Hutton, a witness in behalf of the claimant, taken before Commissioner James Wilson, was filed:

(*Vide* page 5 of this Transcript.)

SAN FRANCISCO, Jan. 6th, 1853.

In the same case the deposition of Andres Pico, a witness in behalf of the claimant, taken before Commissioner Harry J. Thornton, was filed:

(*Vide* page 4 of this Transcript.)

SAN FRANCISCO, August 4th, 1853.

Case No. 140 called: submitted on briefs on both sides and taken under advisement.

SAN FRANCISCO, Jan. 1st, 1854.

In the same case Commissioner R. Aug. Thompson delivered the opinion of the Board confirming the claim.

(*Vide* page 18 of this Transcript.)

Petition.

To the Honorable Commissioners to settle Private Land Claims in California:—

The petition of Julian Estrada respectfully shows, that on the 18th day of January, A. D. 1841, Juan B. Alvarado, Governor of California, by virtue of authority in him vested, granted to the petitioner the tract of land called "Santa Rosa," in the then demarcation and now county of San Luis Obispo, containing three square leagues, more or less, according to the boundaries set forth in the grant and accompanying map, a copy of which grant and map is submitted herewith marked "*A*," with a translation marked "*B*."

That, on the 18th day of December, A. D. 1845, the said land was surveyed, and the juridical possession of it given to the petitioner by the proper(ty) authority in due form of law, a copy of which juridical act is submitted herewith, marked "*C*," with a translation marked "*D*."

That, ever since the year 1841, and before, he has been, and now is, the quiet, peaceful, and undisputed possession and occupation of the said tract of land. That the said land has not been surveyed by the Surveyor-General of the United States, but that it was surveyed by the proper authority at the time of giving the juridical possession, and that its boundaries are well known.

That he knows of no conflicting claim. That he relies for confirmation of title upon the original papers, copies of which are submitted herewith, upon the minutes and records in the archives, now under the charge of the Surveyor-General, and upon such other and further proofs as he may be advised is necessary.

Wherefore, he prays the Commissioners to confirm to him the said tract of land.

By his Attorneys,

HALLECK, PEACHY, & BILLINGS.

Filed in office March 30, 1852.

GEO. FISHER,
Sec'y.

(*Deposition of Andres Pico.*)

SAN FRANCISCO, Jan'y 6th, 1853.

On this day before me, Com'r Harry T. Thornton, came Andres Pico, a witness in behalf of the claimant, Julian Estrada, Petition No. 140, and was duly sworn; his evidence being interpreted by the Secretary. (The U. S. Associate Law Agent was present.) My

name is Andres Pico; my age is 42 years; I was born in California, and live in Los Angeles. I am acquainted with the Rancho called Santa Rosa, in San Luis Obispo; Julian Estrada first occupied it in 1841 or 1842, with cattle, horses, corral, and a small house; he has continued to occupy it ever since.

U. S. Law Agent present.

ANDRES PICO.

Sworn to and subscribed before me this 6th of Jan'y, 1853.

HARRY J. THORNTON,
Com'r, &c.

Filed in office Jan'y 6th, 1853.

GEO. FISHER,
Sec'y.

(*Deposition of P. de la Guerra.*)

OFFICE OF THE BOARD OF CALIFORNIA LAND COMMISSIONERS.

LOS ANGELES, Sept. 9th, 1852.

On this day, before Harry J. Thornton, one of the Commissioners for ascertaining and settling Private Land Claims in California, came Pablo de la Guerra, a witness produced in the behalf of the claimant, Julian Estrada, whose petition is No. 140 on the docket of the Board, and was duly sworn, his evidence being given in English. The U. S. Law Agent attended.

1st Question. What is your age, name, and place of residence?

Ans. My name is Pablo de la Guerra; my age is about 32 years; I reside in Santa Barbara, and a native of California.

2d Question. Examine the document marked *I*, and attached to this deposition, and say if you know the signatures?

Ans. I know the signatures of Juan B. Alvarado, Manuel Jimeno, Julian Estrada, and Joaquin Estrada; their signatures to these documents are genuine, and the documents, to the best of my belief, are genuine.

The Law Agent present.

PABLO DE LA GUERRA.

Sworn to and subscribed before me this 9th day of September, 1852.

HARRY J. THORNTON,
Com'r.

Filed in office Sept. 9th, 1852.

GEO. FISHER,
Sec'y.

(*Deposition of W. R. Hutton.*)

OFFICE OF THE U. S. LAND COMMISSION.

LOS ANGELES, Oct. 8th, 1852.

On this day, before James Wilson, one of the Commissioners for ascertaining and settling Private Land Claims in California, came Wm. R. Hutton, a witness produced in behalf of the claimant, Julian Estrada, whose petition is No. 140 on the docket of the Board, and was duly sworn, his evidence being given in English. The Law Agent, by R. Greenhow, Esq., was present, and did not object.

1st Quest. What is your name, age, and place of residence?

Ans. My name is William R. Hutton; my age is 26 years, and I have resided in California since April, 1847.

2d Quest. Say what you know about the occupation of the Rancho of Santa Rosa, claimed by Julian Estrada.

Ans. I have known the Rancho of Santa Rosa since 1849, at which time it was occupied by the claimant, Julian Estrada. He had on it a house, corrals, about twelve hundred head of cattle and horses, and he has continued to occupy it to the present time.

W. R. HUTTON.

Oct. 8th, 1852.

Subscribed and sworn to before me,

JAMES WILSON,
Com'r.

Filed in office Oct. 8th, 1852.

GEO. FISHER,
Sec'y.

Sello 1o, *Seis pesos.*

Habilitado provisionalm'te por la Aduana maritima del puerto de Monterey, para los años de 1839 y 1840.

ALVARADO.
ANTONIO MA. OSIO.

Vulga para el año de 1842.

[SEAL.] ANTONIO MA. OSIO.

Juan B. Alvarado, Gobernador constitucional del Departamento de las Californias.

Por cuanto, Dn. Julian Estrada ha pretendido para su beneficio personal el terreno conocido con el nombre de S'ta Rosa, colindante al Este con las Lomerias del Rumbo de Sn. Miguel, al Oeste al mar, al Norte con el arroyo de Sn. Simeon, y al Sur con el Portezuelo que linda en la propiedad del Ciud'no Rafael Villr'a practicadas previamento las diligencias y averiguaciones concernientes

segun lo dispuesto por leyes y reglam'tos usando de las facultades que me son conferidas á nombre de la nacion Mejicana, hé venido en concederle el terreno mencionado, declarandole la propiedad de el por las presentes letras, sujetandose á la aprobacion de la Ex'ma Junta Departamental y á las condiciones siguientes.

1a. Podra cercarlo sin perjudicar las travesias caminos y servidumbres, la disfrutara libre y esclusivamente destinandolo al uso ó cultivo que mas le acomode.

2a. Solicitara del Juez respectivo que le de posecion Juridica en virtud de este despacho p'r el cual se demarcarán los linderos, en cuyos limites poudra las mojoneras respectivas.

3a. El terreno de que se hace donacion es de tres sitios de Ganado Mayor poco mas ó menos segun esplica el diseño que corre en el espediente.

El juez que diere la posecion lo hará medir conforme á ordenanza, que dando el sobrante que resulte á la nacion para los usos que le convengan.

4a. Si contraviniere á estas condiciones perderá su derecho al terreno y sera denunciable por otro.

En consecuencia mando que teniendose por firme y valedero este titulo se tome razon de el en el libro á que lo responde y se entregue al interesado para su resguardo y demas fines. Dado en Monterey á diez y ocho de Enero de mil Ochocientos cuarenta y uno.

JUAN B. ALVARADO.

MANUEL JIMENO, *S'rio.*

Queda tomada razon de este despacho en el libro de terrenos sobre adjudicaciones echas pr. el Gobierno.

JIMENO.

[For map, see original between pages 7 and 8.]

Stamp first—Six dollars.

Provisionally authorized by the Maritime Custom House of Monterey for the year 1839 and 1840.

(Signed) ALVARADO.
(Signed) ANTONIO MARIA OSIO.

Good for the year 1842.

MARITIME CUSTOM HOUSE OF MONTEREY.

(Signed) ANTO. MA. OSIO.

Translation of Title.

Juan B. Alvarado, Constitutional Governor of the Department of the Californias.

Whereas, Don Julian Estrada has, for his own personal benefit, petitioned for the land known by the name of Santa Rosa, bounded

on the East by the Hills in the direction of San Miguel, on the West by the sea, North by the arroyo of San Simeon, and South by the Portezuela, which bounds the property of Citizen Rafael Villar'a, the necessary measures and examinations having previously been made, as required by laws and regulations, using the faculties which are conferred upon me in the name of the Mexican nation, I have granted to him the aforesaid land, declaring to him the ownership of it by these presents, subject to the approval of the Most Excellent Departmental Junta, and the following conditions:—

1. He may enclose it without prejudice to the crossings, roads, and servitudes, and enjoy it freely and exclusively, making such use and cultivation of it as he may see fit.

2. He will request the proper magistrate to give him juridical possession in virtue of this order, by whom the boundaries will be marked out, in which he will place the proper bounds.

3. The land thus granted in donation is three sitios de ganado mayor (three square leagues for grazing large cattle), a little more or less, as shown by the map which goes with the Espediente. The magistrate who may give the possession will cause it to be measured according to ordinance, leaving the surplus, which may result to the nation, for the uses which may be convenient.

4. If he shall contravene these conditions, he will lose his right to the land, and it may be denounced by another person in consequence. I order that this title, being held firm and valid, note be taken of it in the corresponding book, and it be delivered to the party interested for his security and other purposes.

Given at Monterey, on the eighteenth of January, one thousand eight hundred and forty-one.

(Signed) JUAN B. ALVARADO.

(Signed) MANUEL JIMENO, *Sec'ry.*

Note has been taken of this Order in the book of grants of land made by the government.

(Signed) JIMENO.

Filed in office March 30th, 1852.

GEO. FISHER, *Sec'ry.*

Pocecion de Don Julian Estrada tomada el dia 18 *de D'bre de* 1845.
Dada por Joaq'n Estrada.

S'or Alcalde 1° de S. Luis Obispo.

El C. Julian Estrada, natural de este departam'to ante V. como mas haya lugar; digo que em birtud del Titulo y diseño que acompaño a V. Suplico se digne darme la posesion Juridica que espresa el mencionado titulo, gracia q'e espera de la generosidad de V. S. Luis Obispo, N'bre 10 de 1845.

JULIAN ESTRADA.

SAN LUIS OBISPO, 12 de Diciembre de 1845.

Por presentado y admitido: Para el Jueves 18 de corriente, previa citacion de los colindantes se dará posecion, berificando las medidas del terreno que se le a concedido. Yo el Alcalde 1° de esta demarcacion asi lo decrete y firmé.

JOAQ'N ESTRADA.

SAN LUIS OBISPO, 14 de D'bre de 1845.

Sitese á los colindantes D. Rafael Villar'o y D. Tomas Paet, para que concurran el dia 18 al rancho de D. Julian Estrada, yo el Alcalde 1° de esta demarcacion hasi lo decreté y firmé.

JOAQ'N ESTRADA.

SAN LUIS OBISPO, 16 de D'bre de 1845.

Con esta fha se sitaron á D'n Rafael Villar'o y D. Tomas Paet, p'a que concurieran el 18, del presente al Rancho de D. Julian Estrada, á las 8 de la mañana y lo sento por dig'a.

JOAQUIN ESTRADA.

En el rancho de S'ta Rosa á los 18 del mes de D'bre de 1845, á las 8 de la mañana, siendo yo el Alcalde 1° de la demarcacion de San Luis Obispo, presente en la casa de habitacion de D. Julian Estrada, y llegaron á ella D. Rafael Villar'o y D. Tomas Puet por la situacion que se les hizo como colindantes y lo asente por diligencia, q'e firmé.

JOAQ'N ESTRADA.

Yn continente en el mismo paraje dia mes y año siendo presentes D'n Julian Estrada yo el Alcalde 1°, acompanado de las de mi asistencia hize medir un cordel con el objeto de proceder á las medidas del terreno, y al efecto se medio fielmente un cordel de cincuenta varas Castilianas, á cuyos estremos se ataron dos estacas, y p'a su y para su constancia asente esta por diligencia q'e firmé con las de *de* mi asistencia.

JOAQ'N ESTRADA.

De asst'a JOSE ANTONIO GARIOLA,
De as'ta TRIFON GARCIA.

Seguida en el mismo paraje, dia mes y año yo el Alcalde 1° de la demarcacion, de S. Luis Obispo, con las de asistencia teniendo presente el no habre su perito agrimensor, dispuse nombrar de las concurrientes dos fieles medidores cordeleros y al efecto nombre á D. Guadalupe Cantua y á D. Pedro Olibera los cuales aceptando este encargo se obligaron bajo el juramento q. prestaron á desempeñarlo fielmente ha entrandolo por dilig'a q'e firmaron los de acis-

tencia con migo y los nombrados q'l por no sabre firmar hicieron la señal de la cruz.

JOAQ'N ESTRADA.

De as'ta.
JOSE ANTONIO GARRIOLA,
GUADALUPE CANTUA,
TRIFON GARCIA,
PEDRO OLIBERA.

A continuacion en el mismo paraje, dia mes y año á las ocho de la mañana, yo el Alcalde 1° de la demarcacion de San Luis Obispo, acompanado de los de mi asistencia y concurentes ya sitados, salimos de la casa de abitacion de D'n Julian Estrada, y nos encaminamos á el lugar en donde segun su derecho señala sus linderos con D. Tomas Paet en cual para dar principio á las medidas le fixo una estaca en la boca del arroyo de S. Simeon y de alli tomando los medidores el cordel por sus estremos y á fia os en citulos (?) se comenso á medir por la playa y costa rumbo al S. hasta llegar a una loma lindero á O. Rafael Villar'o habiendos medidos hasta dicho punto tresuntos viente y dos cordeles de a sincuenta varas, en dicho lugar sé fixo una estaca de alli en sequida se tiro el cordel de la Playa, rumbo al Oriente p'o la sierra y se medieron siento treinta cordeles, hasta el pié de la otra Sierra, señalando agnel termino y lindero se continuaron las medidas por la tierra y lomeria en linca parallela rumbo al N. hasta el arroyo de San Simeon que se signalo por termino y lindero con D. Tomas Paet y se medieron, y se medieron siento treinta cordeles y de alli para concluir las medidas se tiro el cordel todo el arroyo abajo de S. Simeon rumbo Sueste hasta donde se comenzo á medir y se contaron siento treinta cordeles, como lo q'e se concluyo la medida del terreno que queda comprehendido bajo la circumferencia de nobesientos cuatro cordeles de á sincuenta varas, las cittanas concluidas de este modo las referidas medidas y siendo conformes los colindantes p'a perfecionar el acto en presencia de todos los concurrentes; tomi por la mano á D. Julian Estrada y en vos clara le dije á nombre de la nacion Mejicana doy á V. pocecion del terreno que sea medido y respondiendo q'e la tomaba para manifestar y abiendo adquirido el dominio util y directo sera dueño y Señor absoluto de aquel terreno cabo la tierra arranco yerbas y' tiro piedras por los cuatro bientos en lo que se concluyo el acto y firmo con los de acistencia y uno de los Colindantes JOAQ'N ESTRADA.

Ass'a: JOSE ANTONIA GARIOLA.
Ass'a: GUILLERMO BELL.

SAN LUIS OBISPO, D'br 20 de 1845.

Devuelvase estas diligencias originales al interesado para testimonio de adjudicacion de propiedad y el uso que le covengan.

JOAQ'N ESTRADA.

S'N LUIS OBISPO, D'br 20 de 1845.

Atendido el acto antecedente se devolvio á D. Julian Estrada este Espediente en 6 f's utiles y lo asente por diligencia, q'l firmé.

JOAQ'N ESTRADA.

Oneda tomada razon de estas diligencias á foj's 8 y 6 ys.

JOAQ'N ESTRADA.

Filed in office Sept. 9, 1852.

GEO. FISHER,
Sec'y.

(*Translation of Jurid. Possess.*)

To the First Alcalde of San Luis Obispo:

Citizen Julian Estrada, native of this department, before you represents, that in virtue of the title and map which are transmitted herewith, he prays that you will deign to give him the juridical possession referred to in the said title, a favor which he expects from your generosity.

San Luis Obispo, Nov. 10th, 1845.

(Signed) JULIAN ESTRADA.

SAN LUIS OBISPO, December 12th, 1845.

Presented and admitted. On Thursday, the 18th inst., previously summoning the colindantes, possession will be given, verifying the measurements of the land which have been granted. I, the First Alcalde of this demarcation, thus decreed and signed.

(Signed) JOAQUIN ESTRADA.

SAN LUIS OBISPO, 14th Dec., 1845.

Let the colindantes, Don Rafael Villav'o and Don Tomas Paek, be summoned to meet on the 18th inst. at the Rancho of Don Julian Estrada. I, the First Alcalde of this demarcation, thus decreed and signed.

(Signed) JOAQUIN ESTRADA.

SAN LUIS OBISPO, Dec. 16, 1845.

On this day, Don Rafael Villa'a and Don Tomas Paek were summoned to meet on the 18th inst. at the Rancho of Don Julian Estrada, at 8 o'clock in the morning, and it was officially noted.

(Signed) JOAQUIN ESTRADA.

In the Rancho of Santa Rosa, on the 18th of December, 1845, at 8 o'clock in the morning, I, the First Alcalde of the demarcation of San Luis Obispo, being in the dwelling-house of Don Julian Estrada, Don Tomas Paek, and Don Rafael Villav'o arrived there in

compliance with the summons which was sent them as colindantes, and I noted it officially and signed.

(Signed) JOAQUIN ESTRADA.

In continuation in the place, day, month, and year, Don Julian Estrada being present, I, the First Alcalde, accompanied by those of my assistance, caused a cord to be measured for the purpose of proceeding with the measurements of the land, and a cord was faithfully measured fifty Spanish varas long, and at the extremities of which two stakes were tied, and in testimony I made official note of it, which I signed, with those of my assistance.

(Signed) JOAQUIN ESTRADA.

Assisting witnesses,

(Signed) JOSE ANTONIO GARIOLA.
(Signed) TREFON GARCIA.

Then, in the same place, day, month and year, I, the First Alcalde of the demarcation of San Luis Obispo, with the assisting witnesses, it appearing that there was no professional surveyor, decreed to appoint from the bystanders two faithful measuring rope bearers, and did appoint Don Guadalupe Cantua and Don Petro Olivera, who accepting the office, obliged themselves by the oath they made, to discharge its duties faithfully, and official note was made, of which the assisting witnesses signed with me and those appointed, who, not knowing how to write, made the sign of the cross.

(Signed) JOAQUIN ESTRADA.

Assisting witnesses,

(Signed) JOSE ANTONIO GARIOLA,
(Signed) TREFON GARCIA,
(Signed) GUADALUPE CANTUA,
(Signed) PEDRO OLIVERA.

In continuation, in the same place, day, month, and year, at 8 o'clock in the morning, I, the First Alcalde of the demarcation of San Luis Obispo, accompanied by those of my assistance and before-named bystanders, we left the dwelling-house of Don Julian Estrada and went to the place marked on the map as the boundary with Don Tomas Paek, in which to commence the measurements, a stake was fixed, viz: In the mouth of the Arroyo of San Simeon, and thence the measurers, taking the cordel by its extremities and stakes, measured along the beach southerly, to a hill boundary with Don Rafael Villav'a, distant three hundred and twenty-two cordels of fifty varas each, and a stake was driven in said place; thence drawing the cordel east from the beach to the foot of the Sierra, distant one hundred and thirty cordels, that point being marked, the measurements were continued by the Sierra hills in a line parallel (with the coast), northerly, to the coast of San Simeon,

marked as the boundary with Don Tomas Paek, one hundred and thirty cordels distant; and thence, to finish the measurements, drawing the cordel down the Arroyo of San Simeon to the place of beginning, distant one hundred and thirty cordels, with which the measurement of the land was concluded, which contained nine hundred and four cordels, of fifty Spanish varas each, as the sum of its boundary lines.

The said measurements being finished in this manner to complete the act, the colindantes consenting in presence of all the bystanders, I took by the hand Don Julian Estrado, and in a loud voice said to him in the name of the Mexican nation, I give you possession of the land which has been measured; and, replying that he took it, to show that having acquired the useful and direct dominion he was absolute lord and owner of that land, he dug up earth, pulled up grass, and threw stones to the four winds, with which the act was finished.

And I signed, with the assisting witnesses and one of the colindantes.

(Signed) JOAQ'N ESTRADA.

Assisting witnesses.

(Signed) JOSE ANTONIO GARIOLA.
(Signed) GUILLERMO RITTE.

SAN LUIS OBISPO, Dec. 20th, 1845.

Let these original official documents be returned to the interested person in testimony of acquisition of ownership, and the use which he may see fit.

(Signed) JOAQUIN ESTRADA.

SAN LUIS OBISPO, Dec. 20th, 1845.

In compliance with the preceding order, this Espediente was delivered to Don Julian Estrada in 6 folios, and I made official note of it, which I signed.

(Signed) JOAQUIN ESTRADA.

Note has been made of these documents at folios 5, 6, and 7.

(Signed) JOAQUIN ESTRADA.

Filed in office March 30th, 1852.

GEO. FISHER,
Sec'ry.

(*Opinion of Com. Thompson.*)

JULIAN ESTRADA
vs.
THE UNITED STATES

for the place called Santa Rosa, in the County of San Luis Obispo.

This is a claim for three leagues of land, and is founded in a grant made to the claimant by Gov. Juan Alvarado, on the 18th day of January, 1841. Juridical possession was duly given, and the boundaries designated and measured on the 18th day of December, 1845. The genuineness of the original grant, and record of the proceedings of the Juridical possession, are duly proven by the testimony of Pablo de la Guerra. Andres Pico proves that the grantee occupied the land in 1841 or 1842; that he then had a house on it, and stocks of cattle and horses, and has continued to occupy it ever since. The boundaries of the land are very plainly described in the grant, and distinctly marked out in the act of juridical possession and map, and will present no difficulty whatever in its location and survey. It does not appear that the grant was approved by the departmental assembly; but the conditions of the grant having been substantially complied with, the claimant has very clearly shown such an equitable title as, according to the principles settled by the Board in other cases, will entitle him to confirmation of his claim.

Filed in office Jan. 17, 1854.

GEO. FISHER,
Sec'ry.

(*Decree.*)

SANTA ROSA,
in the County San Luis Obispo:

JULIAN ESTRADA
vs.
THE UNITED STATES. } Case No. 140.

In this case, on hearing the proofs and allegations, it is adjudged by the Commission that the claim of the petitioner is valid, and it is therefore decreed that the same be confirmed. The land of which confirmation is made is known by the name of Santa Rosa, being the same which has been held and occupied by the claimant from the year 1841 up to the time of filing his petition before this Board, and is bounded as follows, to wit: Commencing at the mouth of the Arroyo de San Simeon, and running southerly along the beach three hundred and twenty-two cordels of fifty varas each to a hill, boundary with Don Rafael Villav'o, thence leaving the beach East to the foot of the Sierra one hundred and thirty cordels of fifty

varas each, where the spot was marked; thence along the Sierra and hills in a line parallel with the coast northerly one hundred and thirty cordels of fifty varas each to the Arroyo de San Simeon, marked as the boundary with Don Tomas Paek; thence down the Arroyo of San Simeon one hundred and thirty cordels to the point of beginning—the same being of the extent of three square leagues, reference for a more particular description thereof to be had to the original grant and act of juridical possession on file in the case.

ALPHEUS FELCH.
THOMPSON CAMPBELL.
R. AUG. THOMPSON.

Filed in office Jan. 17th, 1854.

GEO. FISHER,
Sec'ry.

OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

I, George Fisher, Secretary to the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, do hereby certify the foregoing nineteen pages, numbered from 1 to 19, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings and of the decision of the said Board, of the documentary evidence, and of the testimony of the witnesses upon which the same is founded, on file in this office, in case No. 140 on the docket of the said Board, wherein Julian Estrada is the claimant against the United States, for the place known by the name of "Santa Rosa."

In testimony whereof, I hereunto set my hand and affix my private seal (not having a seal of office), at San Francisco, California, this twelfth day of September, A. D. 1854, and of the Independence of the United States of America the seventy-ninth.

[PRIV. SEAL.] GEO. FISHER,
Sec'ry.

UNITED STATES DISTRICT COURT,
Southern District of California:

CLERK'S OFFICE, LOS ANGELES.

I, Charles E. Carr, Clerk of the District Court of the United States for the Southern District of California, do hereby certify that the foregoing 20 pages, numbered from 1 to 20, both inclusive, contain a full, true and correct copy of Transcript No. 140, filed in this office, wherein Julian Estrada is appellee and the United States are appellants, for Santa Rosa.

In testimony whereof, I have hereunto set my hand and affixed the seal of said Court at Los Angeles, California, this 30th day of December, A. D. 1855, and of the Independence of the United States of America the eightieth.

[SEAL.] C. E. CARR,
Clk.

DISTRICT COURT OF THE UNITED STATES,
Southern District of California:

CLERK'S OFFICE, LOS ANGELES, December, 1855.

JULIAN ESTRADA
vs.
THE UNITED STATES. } Docket number 73.
Transcript No.

Be it remembered that in the above entitled cause an appeal to the District Court of the United States for the Southern District of California in the United States of America, from the decision of the United States Land Commissioners to ascertain and settle private land claims in California, the following proceedings were had, to wit:—

Transcript from the Board of Commissioners in said case, No. on the docket of said Board, filed and marked No. 73 on the docket of this Court.

(*Vide* page 1.)

Notice of intention to prosecute appeal by the Attorney-General, filed Jan'y 10th, 1855.

(*Vide* page 3.)

Upon which said notice the following subsequent proceedings were had in their chronological order, to wit:—

Petition for review by U. S. Dist. Att'y, filed Aug. 13th, 1855.

(*Vide* page 3.)

Answer to petition for review, filed Sept. 25th, 1855.

(*Vide* page 10.)

Decree of Court confirming the claim.

(*Vide* page 11.)

Order of Court granting appeal to the Spreme Court of the United States.

(*Vide* page 12.)

OFFICE OF THE ATTORNEY GENERAL OF THE UNITED STATES.
WASHINGTON, 30th November, 1854.

JULIAN ESTRADA
vs.
THE UNITED STATES. } 140.

You will please take notice that in the above case, decided by the Commissioners to ascertain and settle Private Land Claims in the State

of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 30th day of August, 1854, the appeal in the District Court of the United States for the Southern District of California will be prosecuted by the United States.

C. CUSHING,
Attorney-General.

Filed Jan'y 10th, 1855.

C. E. CARR,
Clk.

IN THE DISTRICT COURT OF THE UNITED STATES
for the Southern District of California:

LOS ANGELES COUNTY, State of California.

JULIAN ESTRADA
ads.
THE UNITED STATES. } No. 73 (Transcript No. 140).

To the Honorable Isaac S. K. Ogier, Judge of the District Court of the United States for the Southern District of California.

The Petition of Pacificus Ord (of Los Angeles county), Attorney of the United States for the Southern District of California, who petitions in this behalf for the United States, and being present here in Court in his proper person, in the name and behalf of the United States, represents as follows: That heretofore, to wit, on or about the 30th March, A. D 1852, Julian Estrada presented a petition to the Commissioners to ascertain and settle the Private Land Claims in the State of California, claiming the tract of land called Santa Rosa, in the county of San Luis Obispo, in the words and figures following, viz:—

"The petition of Julian Estrada respectfully shows, that on the 18th day of January, A. D. 1841, Juan B. Alvarado, Governor of California, by virtue of authority in him vested, granted to the petitioner the tract of land called 'Santa Roza,' in the then demarcation and now county of San Luis Obispo, containing three square leagues more or less, according to the boundaries set forth in the grant and accompanying map, a copy of which grant and map is submitted herewith, marked '*A*,' with a translation marked '*B*;' that on the 18th day of December, A. D. 1845, the land was surveyed, and the juridicial possession of it given to the petitioner by the proper authority in due form of law, a copy of which juridicial act is submitted herewith, marked '*C*,' with a translation marked '*D*.'

"That ever since the year 1841 and before, he has been and now is in the quiet, peaceful, and undisputed possession and occupation of the said tract of land; that the said land has not been surveyed by the Surveyor-General of the United States, but that it was surveyed by the proper authority at the time of giving the juridicial possession, and that its boundaries are well known.

"That he knows of no conflicting claim.

"That he relies for confirmation of title upon the original papers, copies of which are submitted herewith; upon the minutes and records in the archives now under the charge of the Surveyor-General, and upon such other and further proofs as he may be advised as necessary; therefore, he prays the Commissioners to confirm to him the said tract of land."

Your petitioner further represents that thereafter, to wit, on the 17th day of January, A. D. 1854, the said Commissioners confirmed by final decree the said claim of the said Julian Estrada, in the words and figures following, to wit:—

"In this case, on hearing the proofs and allegations, it is adjudged by the Commission that the claim of the petitioner is valid, and it is therefore decreed that the same be confirmed.

"The land, of which confirmation is made, is known by the name of Santa Rosa, being the same which has been held and occupied by the claimant from the year 1841 up to the time of filing his petition before this Board, and is bounded as follows, to wit: Commencing at the mouth of the Arroyo de San Simeon and running southerly along the beach, three hundred and twenty-two cordels of fifty varas each, to a hill boundary with Don Rafael Villavo; thence, leaving the beach east to the foot of the Sierra, one hundred and thirty cordels of fifty varas each, where the spot was marked; thence along the Sierra and hills, in a line parallel with the coast, northerly, one hundred and thirty cordels of fifty varas each, to the Arroyo de San Simeon, marked as the boundary with Don Tomas Paek; thence down the Arroyo of San Simeon one hundred and thirty cordels to the point of beginning: The same being of the extent of three square leagues, reference for a more particular description thereof, to be had to the original grant and act of juridical possession on file in the case."

ALPHEUS FELCH,
THOMPSON CAMPBELL,
R. AUG. THOMPSON.

That thereafter, to wit, on the 16th day of September, A. D. 1854, a duly certified transcript of the said decree and proceedings, and the papers and evidence on which it was founded in said cause, was filed in the office of the Clerk of the District Court of the United States for the Southern District of California, and marked (No. 73) (Transcript No. 140), reference to which, it is prayed, may be had and made a part of this petition.

That, on the 30th August, A. D. 1854, the Honorable Caleb Cushing, Attorney-General of the United States, received a duly certified duplicate of said transcript of said final decree and proceedings of said Commissioners in said cause (No. 140), and the papers and evidence on which said decree was founded.

That thereafter, to wit, on the 10th day of January, A. D. 1855,

the said Attorney-General of the United States filed, or caused to be filed, on behalf of the United States, a notice with the said Clerk of the said District Court for the Southern District of California, that the appeal in said cause of Julian Estrada *vs.* The United States, from the decision of the said Commissioners to ascertain and settle the Private Land Claims in the State of California, in the District Court of the United States for the Southern District of California, would be prosecuted by the United States.

Your petitioner further represents, that the said land, claimed as aforesaid, is within the jurisdiction of this Honorable Court.

And your petitioner further represents and insists, that the said decree of said Commissioners is erroneous, and ought to be reviewed, reversed, and set aside, for many errors and imperfections of law and evidence, apparent in said certified transcript of said cause, now on appeal from said Commissioners to this Honorable Court.

And your petitioner further represents, that the said claim is invalid, and the said decree erroneous, on the following grounds:—

I. And the said attorney denies all and singular each and every allegation in the said petition of said claimant to said Commissioners, of said date; and he further denies that any grant for said land was ever made, as alleged in said petition; and he denies further, that the said claimant has shown any or sufficient evidence of the validity of said claim.

II. That the said alleged grant of Juan B. Alvarado was made in violation of the 4th Article of the Colonization Law of Mexico, of the 18th of August, A. D. 1824, in this: that the land granted, as alleged by claimant, was, and is, within ten leagues of the sea-coast, and there is no evidence shown by claimant that the supreme general executive power of Mexico previously approved of the colonization of the public lands in Upper California, lying within ten leagues of the sea-coast; and it is denied that such previous consent of said supreme general executive power of Mexico, in such case, was ever had.

III. That at the date of the said alleged grant the said land claimed as aforesaid was occupied by, and in the possession of the Missions of Upper California; and it was held and occupied particularly by the Mission of San Luis Obispo, and could not therefore be colonized.

IV. That the said alleged grant has not the conditions required by, and is not made in entire conformity with the laws of Mexico of the 18th day of August, A. D. 1824, and the regulations for the colonization of the Territories of Mexico of the 21st of November, A. D. 1828.

V. That the said alleged grant of said Juan B. Alvarado, of the date of the 18th of January, 1841, is not upon the lawful stamped paper of the year 1841.

VI. That the said alleged grant has not the conditions requiring

the alleged grantee to build a house on the land and have it occupied within one year from the date of the grant, or within a limited time, and that he should cultivate the land within a fixed period of time.

VII. That the description of the extent and boundaries of the land in said alleged grant are vague and indefinite.

VIII. That there is no evidence that the said alleged grant was ever approved by the Departmental Junta or Assembly of California, or the Supreme Government of Mexico; and it is denied that it was ever approved by the said Departmental Junta or Assembly, or said Supreme Government.

IX. That said claimant shows no definitive grant for said land.

X. That the said claimant failed to show in evidence the minutes and records in the archives under the charge of the Surveyor-General of California, upon which said evidence he relied for confirmation of said claim, as set forth in his said petition to said Commissioners.

XI. That the said claimant failed to produce in evidence the original espediente and the map of the land thereto belonging and referred to in said alleged grant as a part thereof.

XII. That the map shown in the record of the proceedings before the said Commissioners, is not proved to be an original or authentic copy of said map of said land referred to in said alleged original grant, and it is not upon the lawful stamped paper.

XIII. That the paper shown in said record purporting to be a petition of said Julian Estrada to the 1st Alcalde of San Luis Obispo, asking for the juridical possession of the land granted him, is upon common paper, and no reason is shown therefor.

XIV. That the alleged acts of juridical survey and possession of the said land by Joaquin Estrada, dated the 18th of December, A. D. 1845, is upon common paper, and no reason is shown therefor. That the said acts of survey and possession of said Joaquin Estrada are not made according to the said alleged grant and the map referred to therein, nor according to the ordinance or law, and they are vague and indefinite.

XV. That the said alleged juridical acts of survey and possession of said land by said Joaquin Estrada of said date, were unlawful, for the reason that the said alleged grant of said land had not been approved by the said Departmental Junta or Assembly of California, or the Supreme Government of Mexico, at the date of said alleged juridical acts.

XVI. Then there is no sufficient evidence that the said claimant built a house upon the said land and occupied it within one year from the date of said grant, and that he cultivated the said land within said period of time, and it is denied that he built a house upon said land and occupied it, and cultivated the land within said time.

XVII. That there is no evidence that the said Joaquin Estrada

was 1st Alcalde of the jurisdiction of San Luis Obispo on the said 18th of December, 1845, and had then lawful authority to perform said alleged juridical acts of survey and possession of the said land, and it is denied that said Joaquin Estrada was 1st Alcalde of said place at said time, and had the lawful authority to perform said alleged juridical acts. And no sufficient proof having been made by said claimant of the allegations of his said petition, or in support of his claim filed as aforesaid, no decree ought to have been made or grounded thereon, but the said petition ought to have been dismissed, and said claim rejected by said Commissioners upon the grounds aforesaid. And the said claimant having no valid right or title, derived from the Spanish or Mexican Governments, to the said land claimed by him as aforesaid, the lawful right or title in and to the said land was acquired by, and it now belongs to the said United States by virtue of the treaty of peace, friendship, limits, and settlement, with the Republic of Mexico, dated at the city of Guadalupe Hidalgo, February 2d, A. D. 1848.

Wherefore, the said Pacificus Ord, Attorney of the United States for the Southern District of California, for and in behalf of the United States by reason of the premises, and in pursuance of the Act of Congress entitled "An act to ascertain and settle the Private Land Claims in the State of California," approved March 3, A. D. 1851, and the laws and statutes in such case made and provided, prays that the said Julian Estrada may be served with a copy of this petition, and that this Honorable Court will review the said decision or final decree of confirmation of said Commissioners to ascertain and settle the Private Land Claims in the State of California, and decide on the validity of the said claim of said Julian Estrada for said land claimed and confirmed as aforesaid, and all such other orders, judgments, or decrees as may be just, with costs and general relief.

P. ORD,
Att'y of the United States for the Southern Dist. of Cal'a.

Filed Aug. 13th, 1855.

C. E. CARR,
Clerk.

Answer of Appellee.

IN THE UNITED STATES DISTRICT COURT
for the Southern District of California.

THE UNITED STATES, Appellants,
vs.
JULIAN ESTRADA, Appellee. } No. 73.

Julian Estrada, appellee, appears by his attorneys, and for answer to the petition of the United States, filed herein, says:

That his title to the land called "Santa Rosa," as set forth and

described in his petition to the Board of Commissioners and in the documentary and other evidence in this case, is a good and valid title; and he prays this Honorable Court to affirm the decision of the Board of Commissioners, and to decree his title to be valid.

HALLECK, POUCHY, & BILLINGS,
Att'ys for Appellee.

Filed Sept. 25th, 1855.

C. E. CARR, *Clerk.*
by J. W. ROSS, *Dep'ty.*

(*Decree.*)

DISTRICT COURT OF THE UNITED STATES
for the Southern District of California:

JULIAN ESTRADA, Appellee,
vs.
THE UNITED STATES, Appellants. } No. 73.

FOR SANTA ROSA.

This cause coming on to be heard at a stated term of said Court, on appeal from the decision of the Commissioners to ascertain and settle Private Land Claims in the State of California, under the Act of Congress, approved March 3d, 1851, on the transcript of the proceedings and decision, and of the papers and evidence on which said decision is founded; and it appearing that said transcript has been duly filed, and counsel for the respective parties having been heard, it is ordered, adjudged, and decreed that the said decision be in all things affirmed; and it is further ordered, adjudged, and decreed that the claim of the said Julian Estrada is valid, and that the same be confirmed to the tract of land known by the name of "Santa Rosa," being the same land which has been held and occupied by him from the year 1841, and is bounded as follows: Commencing at the mouth of the Arroyo de San Simeon, and running southerly along the beach three hundred and twenty-two cordels of fifty varas each, to a hill boundary with Don Rafael Villavo; thence leaving the beach, East to the foot of the Sierra one hundred and thirty cordels of fifty varas each, where the spot was marked; thence along the Sierra and hills in a line parallel with the coast, northerly, one hundred and thirty cordels of fifty varas each, to the Arroyo de San Simeon, marked on the boundary with Don Tomas Paek; thence down the Arroyo of San Simeon one hundred and thirty cordels of fifty varas each to the point of beginning—the same being of the extent of three square leagues—reference for a more particular description of which to be had to the original grant and map, copies of which are of file in this case.

(Signed) M. HALL McALLISTER,
Judge Circuit Court U. S. for the District of California.

IN THE UNITED STATES DISTRICT COURT
for the Southern District of California.
Special Term, Sept. 1855.

LOS ANGELES.

JULIAN ESTRADA, Appellee, ads. THE UNITED STATES, Appellant. } No. 73 (Transcript No. 140).

On motion of P. Ord, Attorney of the United States for the Southern District of California, it is ordered by the Court that an appeal be granted the United States to the Supreme Court of the United States, from the judgment of this Court against the United States in the above entitled cause, rendered on or about the 26th day of September, A. D. 1855.

(Signed) P. ORD,
U. S. Dist. Attorney.

Filed Jan. 10, 1855.

(Signed) C. E. CARR,
Clerk.

UNITED STATES DISTRICT COURT,
Southern District of California.

CLERK'S OFFICE, LOS ANGELES.

I, Charles E. Carr, Clerk of the District Court of the United States for the Southern District of California, do hereby certify the foregoing twelve pages, numbered from 1 to 13, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings and of the decision of the said Court, of the documentary evidence, and of testimony of witnesses upon which the same is founded, on file in this office, in Case No. 73 on the docket of the said Court, wherein Julian Estrada is appellee and the United States is appellant for "Santa Rosa."

[SEAL.] In testimony whereof I have hereunto set my hand and affixed the seal of said Court at Los Angeles, California, this sixth day of December, A. D. 1855, and of the independence of the United States of America the eightieth.

C. E. CARR,
Clerk.